

## **AZDEQ/EPA Water Programs Midyear Evaluation for FY09-10**

The mid-year review was held between ADEQ and EPA in February 2010. Discussions were conducted via separate program-specific conference calls. The evaluation focused on workplan commitments and current progress. If changes to the current workplan were warranted, they are noted below.

**Planning** - ADEQ and EPA compared time frames for midyear evaluation and workplan negotiations against the grant application deadline. Review by ADEQ management combined with an early grant deadline will limit EPA and ADEQ's ability to have meaningful discussions on FY11 commitments. EPA has proposed a conditional grant award for FY11 (July 2010-July 2011) and a revised schedule for evaluations and submittals. ADEQ's inability to travel to SF results in EPA managers and program staff travelling to AZ to maintain our relationships. We'll evaluate which meeting(s) should be held face-to-face. The use of more frequent conference calls, such as the monthly SDWA and CWA compliance calls were also encouraged.

Proposed 2011 schedule:

EOY report due mid-August 2010

Midyear report due mid-February 2011

Grant guidance due mid-March 2011

Workplan due March 31, 2011

**Monitoring** - ADEQ is on target with all of the tasks and deliverables. Monitoring staff are gearing up for the National Wetlands Survey in 2011 by participating in national calls and groups. EPA shared information on the number of survey sites for Arizona. ADEQ asked for our thoughts on how to best go about finding a botanical contractor/expert and amount of funding available.

**Standards** - ADEQ is making progress toward the goals established for FY2010. AZ's methylmercury in fish tissue and narrative toxics standards were discussed in relation to other TMDLs and potential Variances. These standards are planned for completion by March 2010. EPA described the current review of AZ's Narrative Nutrient Standard Implementation Procedures for Lakes and Reservoirs. EPA continues to discuss the nutrient standards and implementation procedures with EPA Headquarters, and is evaluating HQ and Tetra Tech comments prior to determining the appropriate action: approval, additional data collection or suggesting revisions to the standards. EPA shared its plan for completing action on the remaining standards submittals and committed to a call on approvals of these standards in the next few weeks.

**TMDLs** - ADEQ has revised its commitments and schedule for the number of TMDLs predicted for completion and submission by the end of FY 2010. They have had difficulty reaching initial goals, but have adjusted their numbers to 14 vs. an original predicted 19 TMDLs. Budget and staff cuts have hindered progress on completing TMDLs. EPA is hoping they are able to submit the 14 TMDLs by the end of the federal FY2010 (September 30, 2010).

**NPS** - The EPA NPS Grants Reporting and Tracking System (GRTS) national conference was hosted by DEQ in December and was a huge success. The 2009 load reduction data entry was completed in a timely fashion. The 5-year NPS plan is undergoing final internal review and submittal is expected this FY. Current Targeted Watershed Implementation Plans (WIP) projects are progressing at different paces. The current WIP projects are: Granite Creek, San Francisco, and Oak Creek. Future targeted watersheds are: Little Colorado, Salt River, and San Pedro. All of these watersheds are 12-digit HUC's or smaller.

Measure W watersheds: Turkey Creek should be delisted for Cu and possibly Pb in the near future. Pinto Creek's major source of pollution is the tailings at the Gibson mine, which is likely to receive NPS funds for remediation. EPA has requested assistance from SFD's Mining Group to address the remaining sites/sources in the watershed. Alum Gulch continues to be impacted by high natural background and unlikely to be delisted. Clean-up activities at Boulder Creek are resuming. EPA is working with SFD's Mine Group on the pollutant source, Hillside Mine. Remediation in Boulder Creek is ranked high enough to be considered an emergency response project.

**NPDES Permits** - Permit issuance (except stormwater) continues to move forward and a small percentage remain backlogged. ADEQ continues to receive applications for NPDES permits and issues these in a timely manner. In order to ensure the most accurate data is in PCS, EPA will send copies of the monthly reports to both the Permits Unit and Data Unit to ensure accurate uploads are occurring.

Stormwater permit issuance has faltered. The program has missed all of its commitments for permit issuance for 6 of its 8 MS4 permits, which are now seriously overdue. The commitments for issuance of these permits have been carried over from previous grant workplans and this continued non-performance must be addressed. EPA expects to see these permits final by the end of the grant period. EPA acknowledges the difficulties associated with addressing the nuances in MS4 permit terms but is concerned about the protracted negotiations on these individual permits. The program has established a new schedule for completing drafts for Public Notice as well as final issuance for Mesa, Tempe, Glendale, Pima County and Scottsdale.

EPA has also agreed to delay completion of the the Phase II MS4 permit, which will be moved to next year's workplan. EPA also is concerned about the delay in issuance of the MSGP, but understands ADEQ expects to issue a draft in April 2010.

**CWA Compliance** - ADEQ is on track to meet its workplan commitments for NPDES inspections including majors, minors, stormwater, CAFOs, biosolids and pretreatment and assures us they will meet their end-of-year commitments. ADEQ lost their single dedicated pretreatment and biosolids inspectors to layoff and reassignment, respectively; and are using inspectors from other programs and supervisors to cover their commitments in these programs. EPA is concerned about ADEQ's loss of pretreatment and biosolids expertise and questions their ability to sustain the necessary level of effort using substitute inspectors. In addition, completing pretreatment activities included as tasks in the second half of the grant year may prove challenging, specifically the evaluation of Nogales facility compliance with influent objectives.

We will use the FY11 grant workplan negotiations to discuss options for ADEQ to shore-up their pretreatment and biosolids programs.

EPA is concerned that ADEQ continues to rely almost entirely on informal enforcement responses for Clean Water Act violations. In the first two quarters of this year, ADEQ issued numerous informal enforcement actions (Notice of Opportunity to Comply and Notice of Violation) but no formal enforcement actions (administrative orders or penalties). EPA's primary recommendation from the September 2009 State Review Framework report was for ADEQ to increase use of formal enforcement for Clean Water Act violations. ADEQ has not issued formal enforcement actions for any of the few SNCs this year: Show Low, Globe and USIBWC Nogales. (Show Low remains in SNC as ADEQ reassesses the variance request. ADEQ has been working for some time to develop an AOC for Globe. EPA agreed to issue an NOV against Nogales.)

**Drinking Water** - ADEQ should submit a complete and revised package in a timely fashion addressing EPA's recent comments on the partial omnibus primacy package.

ADEQ is on track to meet sanitary survey inspections goals and has made some progress in carrying out their "Monitoring and Reporting (M/R) Project" initiative. As a result of the initiative, 18 NOVs have been issued and several more are forthcoming to address various SNC M/R violations. SDWIS data reporting has been timely and complete and ADEQ is on track to meet its commitment for addressing over 600 SNCs.

Only 3 Administrative Orders have been completed this year and more than a dozen systems with arsenic NOVs (issued in 12/08) have not been formally addressed. The slow pace of reaching administrative orders on consent has resulted in an unacceptably long list of systems with health-based violations lacking formal action by the state or EPA (per OECA). In 9/09, EPA and ADEQ senior managers discussed a "work-sharing" process to expedite these formal enforcement actions, but based on our most recent monthly compliance discussions it's unclear if ADEQ plans to seek a "work-sharing" agreement with EPA to address enforcement backlog.

OECA issued a new Enforcement Response Policy (ERP) in 12/09 which requires all systems with acute MCL violations and a score of 11 or more points under the Enforcement Targeting Tool to return to compliance by the state within two calendar quarters, or EPA Regions must issue formal NOVs and AOs at that time. We anticipate initiating formal enforcement actions with federal facilities listed on the ERP across Region 9 by June 2010.

**GroundWater/UIC/APP** - ADEQ's APP program continues to communicate with EPA's Ground Water Office on mutually regulated activities for Morton Salt, Cholla Power Plant, natural gas storage companies, Florence Copper, and other newly proposed sites. The APP program is coordinating with EPA on Morton Salt's new permit to ensure consistency on the monitoring requirements and prevent a recurrence of a leak.

**Sourcewater** - EPA is pleased with ADEQ's progress in source water protection. There are no issues. We look forward to all work being carried out as planned during FY10.

**Border** - ADEQ's Border engineer and hydrologist have provided engineering, hydrologic and industrial pretreatment counsel related to EPA border infrastructure projects in Arizona and Sonora. The team continues to help EPA in the solicitation of new projects, has supports EPA projects through development and construction, provides EPA with an 'eye and ear' at the local level, supplies progress (and regress) reports and has proven indispensable in the implementation of the suite of projects in the Ambos Nogales and the Santa Cruz River Watershed.

EPA is concerned that ADEQ maintains its presence in the border region and continues to provide engineering assistance and process support to the disadvantaged communities along the border.